

## Minutes

Utah Council on Victims of Crime  
Thursday, January 15, 2009

11:30 a.m. Lunch  
12:00 p.m. Meeting

Capitol Board Room  
East Side Second Floor  
State Capitol, Salt Lake City

### In Attendance:

Reed Richards	Ron Gordon	Christine Watters
Cecelia Swainston	Yvette Rodier Evans	Laura Blanchard
Sharon Daurelle	Ed Berkovich	James Swink
Patricia Sheffield	Steve Schreiner	Doug McCleve
Mel Wilson	Kyle Goudie	Jacey Skinner
Mike Rapich	James Cordova	Mark Shurtleff, visitor
Dave Walsh, visitor	Wade Faraway, visitor	Asha Parekh, visitor
Judy Kasten-Bell, visitor	Fred Voros-visitor	Tom Brunker, visitor
Cliff Butter, visitor	Heidi Nestel, visitor	Brandon Simmons, visitor
Liz Sollis, visitor	Mac Jennings, visitor	Allison Williams

## MINUTES

Agenda Item:	Welcome, Reed Richards
Discussion:	Reed welcomed everyone and convened the meeting. Reed briefly mentioned the financial budget that should take an interesting toll on this legislative session.

Agenda Item:	Capitol Appeal Issues, Tom Brunker & Fred Voros
Discussion:	<p>Tom Brunker and Fred Voros are here to solicit our support for the Utah Effective Death Penalty and Innocence Protection Amendment. They would like to add the Council to their list of supporters. They passed around two handouts which included a list of all the current inmates on death row and the Amendment fact sheet. Tom and Fred talked about the toll that these long and drawn-out death penalty cases take on victims. The victims' families are especially concerned about repetitive post-conviction appeals.</p> <p>Their first course of action to rectify the situation was to</p>

	<p>amend the Post-Conviction Remedies Act, which they did last year. For the purpose of this Proposal, they have divided prisoners into two categories: innocent and guilty. The truly innocent always have the option to appeal and get out of prison, and this would not disturb habeas corpus. This amendment is about multiple attacks on courts that have jurisdiction. They offered to answer any questions the Council has and reiterated their hope that the Council will support them in this effort to help victims of all crimes, especially capital crimes.</p> <p>Doug McCleve made a motion to support this amendment, which was seconded by Patricia Sheffield and approved by everyone.</p>
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Agenda Item:	Standardized Victim Letter, Yvette Evans
Discussion:	<p>Yvette stated that she was hoping the statement would be a little less formal, but is pleased with it. The wording regarding the purpose of this statement that gives justices a better understanding is well-written. Cecelia asked if there was a time limit from the time it is mailed out to the time it is received back and suggested that they add that to the bottom of the letter, that it must be received by a certain day. There are some minor wording details, but once they are fixed the letter can start being distributed. Some suggestions were:</p> <ul style="list-style-type: none"> <li>-to use “ongoing” or “continuing” instead of “ensuing” that is in the fourth line</li> <li>-should use as the first statement that “you have a right to submit a victim impact statement”</li> <li>-change “this is” to “this may be a confusing and painful process”</li> <li>-put statutes in smaller font at bottom; don’t need all the citations in the body of the letter</li> </ul> <p>A motion was made to approve the letter and seconded and approved by everyone.</p>

Agenda Item:	Legislative, James Swink
Discussion: Victims Rights Statute	<p>Mel Wilson</p> <p>Paul Cassell has a copy of the Victims Rights Remedy</p>

	<p>Proposal, which we will need to provide to the Council. The proposal gives crime victims the ability to assert their right for proper remedies. There are some limitations to the rights though such as time limits, those who can't afford attorney's fees, etc. Those who are apart of the Victims Rights Legislative Review Subcommittee are trying to persuade the prosecutor's to support this legislation. There is resistance though because the prosecutor's fear that if they re-open the plea, then it could case a double jeopardy issue. Arizona though, has a statute that allows the re-opening of a plea. Tomorrow the committee is meeting with the SWAP board, but aren't sure of their strategy. They aren't sure if they want to push forward with it as it's written with out prosecution support or see about compromising their position.</p> <p>Ron asked if SWAP had offered alternatives if they don't like the proposal the way it is. Ed said the resistance is mostly due to the overturn of the plea. In eight years only two cases have fit this scenario of extreme violation. Ed says he has honestly gotten a plea wrong with a victim so he did tell the judge this isn't what she wanted. Cecelia, in response, said that in the federal law the prosecutor would have to intentionally violate the victim's rights, not on accident in order for them to remedy this and re-open the case. If this is something the committee is going to consider it would need to be clearly written in the proposal. There are several other issues with this legislation that need to be worked out. For example, how does a victim assert their right in certain circumstances? Heidi thinks because victims have pre-plea rights they should be able to assert their rights then; that a plea needs to be opened before sentencing. The committee would rather not do any legislation than to compromise on a plea-set aside for example. Reed suggested the committee keep going with all the meetings and see where it takes them. Ron suggested that we just go in there strong and say this is our bill, support it.</p>
Discussion: Strangulation	<p>James Swink</p> <p>James quickly stated that Representative Seelig is sponsoring this bill and the only problem is likely to be the fiscal note.</p>
Discussion: Breach of	James Swink, Asha Parekh & Judy Kasten-Bell

Protective Order	<p>Asha told the Council that she was going to present information that was presented at the Forum in September. The Utah Domestic Violence Council does not support this legislation. Senator McCoy will be doing a modified version which looks better than the previous. Asha indicated that there are already laws in place and this is just another way for the perpetrator to harass the victim. One example is of a woman who is constantly harassed then dropped the protective order because it wasn't helping her and she knows that if this law was in place her perpetrator would have used it against her.</p> <p>Senator McCoy did make changes, but Judy believes they are in a dangerous place with this legislation. Now in order to dismiss the protective order, you don't have to meet all four requirements that were originally there, but now you only have to meet two. Any acts of the petitioner that show a lack of fear and if there are no convictions or violations then these would constitute a dismissal. There are situations that merit the dismissal, but there are already laws in place to deal with this. This legislation would only hurt the victim. Establishing a system where you question if this is the victim's fault would be horrible. James thinks we should oppose this. Ed made a motion to oppose this legislation, which was unanimously passed by everyone.</p>
Discussion: DV in Presence of a Child	<p>Reed Richards</p> <p>The reason for this legislation is that it's a problem if DV is committed in the presence of three children, but there is only one offense cited. This legislation makes each one a separate offense.</p>
Discussion: Dating Violence Protective Order	<p>James Swink</p> <p>Senator Bell was the sponsor, but there is now a different representative on there, whose name couldn't immediately be remembered.</p>
Discussion: DNA	<p>Doug McCleve</p> <p>Doug said that we would hold off on this DNA legislation until next year. If there isn't a fiscal note attached, then it will be fine. The current bill says you can't take DNA at time of arrest without restrictions, such as the \$100 dollar</p>

	fee. There are also concerns over who (which jurisdiction) gets paid what?
Discussion: Sex Offender Contact with Child	<p>Reed Richards</p> <p>This is the same bill the Council discussed last year. It is drafted, but didn't make it through the Senate at the end of the day. If someone is in the sex offender registry who tries to pick up a child under 14 then it would be an automatic violation. They don't have to pick them up just the attempt of doing it is enough to warrant a violation, which would be a Class A misdemeanor.</p>
Discussion: Research of Topics	<p>James Swink</p> <p>This is an ongoing topic. The legislative committee doesn't have an intern right now, but would like one and will keep working to get one.</p>
Discussion: Schedule of Legislative Meetings	<p>James Swink</p> <p>The first meeting will be Friday, January 30<sup>th</sup> at 11:30 a.m. which will be held in Roy right off the freeway in their city office building. All meetings would only last about an hour and a half. James asked if Fridays would still work for everyone and most agreed.</p>

Agenda Item:	2009 Annual Crime Victims Conference, Laura Blanchard
Discussion:	<p>Laura reported that the committee is still working out details on workshops and main speakers. Yvette will be the keynote speaker with other great local speakers to present as well. If any Council members have a picture of the Capitol at sunrise then please send it to Laura so it can be used as the graphic for the heads-up flyer.</p>

Agenda Item:	VINE, Ron Gordon
Discussion:	<p>CVR is paying \$500,000 for the VINE contract and \$75,000 for the court contract. CVR needs to take significant measures to stabilize our fund which is at an all time low. The new medical fee schedule takes effect next Wednesday which will save about \$500,000. Ron is currently working with CCJJ to come up with other cost-saving measures.</p>

	<p>Ron would like to terminate the court contract because it is not a public safety issue. Notifications are important, but not an issue of direct public safety. The court contract is half the total cost, but constitutes only 10% whereas the jails and prisons are 90%. Notifications are going out through other means anyway so this wouldn't be a huge blow.</p> <p>The fund is losing between one and two million a year, depending on revenue. CVR's revenue is about the same, but the money that's coming out from Department of Corrections and CCJJ has nothing to do with CVR issues. District and justice courts not being on our contract would be a loss, but we need to save the money and they are costing a lot. James Cordova said he agrees with Ron and that they can get their notification from the advocates so they must be doing their job if the courts only constitute 10% of notifications. So it was decided that it is not that big of a loss to cut the court contract.</p> <p>Another idea that is favorable is to increase restitution. Someone at CVR is working on this issue.</p>
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Agenda Item:	Restitution Pilot Project, Mel Wilson
Discussion:	Mel will report on this next time.

Agenda Item:	POST Victimology Course Curriculum, Doug McCleve
Discussion:	<p>In POST they are only getting four hours of victimology training. The problem is that they take notes just to pass the test then they forget the information. Field training does differ though in different cities. It was suggested that we add more to the basic training then work our way up to field training. Cacey and Heidi have done some of the trainings in the past.</p> <p>Patricia would like to see a section on child vs. adult victims and how to deal with them. We're not even sure if children are a current topic. James asked Patricia to take this curriculum and coordinate with Cacey, Heidi, and any others to work on the curriculum and see if we can add or delete anything.</p>

Agenda Item:	Guns & DV, Doug McCleve
Discussion:	Police officers who are convicted of DV aren't allowed to have guns, but there is concern that they still have access to guns because people save the guns for them. It is the federal, not state, law that places these restrictions. Mike will take over this issue from Doug.

Agenda Item:	Sentencing Matrix, Ned Searle
Discussion:	This agenda item was skipped.

Agenda Item:	Other, Cliff Butter
Discussion:	<p>Cliff Butter, Director of Research for the Department of Corrections, gave a presentation on the process of fiscal note requests. After the interim committee meetings those pending pieces of legislation will get processed where they will then go back out to the agencies for an official request for a fiscal note. For Cliff's agency they attend all the interim committee's and the sentencing commission, where they get everyone's perspective. Mechanically, if the piece of legislation is changing degree it does have a cost difference in the first couple years. The important thing to keep in mind, Reed suggested, is the money involved.</p> <p>Mel asked if Cliff was able to tell if a bill will have a fiscal note on it before the bill is even put through. Cliff said that they did have ways of figuring that out. Mel also asked if there is a positive impact to doing this and does it save money? There is a problem with that strategically though. Ron indicated that Corrections takes a lot of scrutiny for fiscal notes, but it's a reality that prison costs money and a lot of the Council's bills send people to prison.</p>

Agenda Item:	Next Meeting
Discussion:	March 19, 2009 at noon

<b>Action Items:</b>	
Discussion:	<b>Yvette and Tammie:</b> Make changes to victim impact letter

	and start distributing it <b>Tricia:</b> Coordinate with Heidi and Cacey about POST trainings <b>Mike:</b> Work on guns & DV issue
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